

**MINUTES  
TOWN OF DARIEN  
EMERGENCY MEETING OF BOARD OF SELECTMEN**

**June 26, 2009**

An Emergency Meeting of the Board of Selectmen was held on June 26, 2009. First Selectwoman Evonne Klein called the meeting to order at 8:03 a.m. Present were Selectmen Bayne, Morton, Santarella and Sullivan; Public Works Director Robert Steeger and Administrative Officer Karl Kilduff.

First Selectwoman Klein stated that the Emergency Meeting was called to discuss and take action on the next steps the Town would pursue in flood mitigation at Baker Field as a response was required to the DEP this day.

**NEW BUSINESS**

First Selectwoman Klein described the current situation on the project with a petition seeking a public hearing with the DEP on the Baker Field project. The Tuesday night prior a meeting was held with the petitioners to see if there was any area for compromise as recommended by the DEP. The feeling expressed by the petitioners was to move forward with the DEP process.

First Selectwoman Klein continued noting that the Town had the option to withdraw the application; look to provide some degree of flood proofing to the business buildings on Heights Road; or to proceed with the DEP adjudicatory process. She further explained that as part of the DEP process the Town would need to hire an attorney to put on a case and provide expert testimony before a hearing officer. The first hearing date would take place in Darien and all subsequent hearings would transpire in Hartford. The first hearing date would be, at the earliest, 60 days away. First Selectwoman Klein added an estimate from one of the consultants put the time to complete the process would be another year.

Ms. Sullivan questioned the DEP process and the role of the petitioners. First Selectwoman Klein noted that the scope of the DEP process was very specific. Mr. Bayne noted the difference between making a statement versus the role of an intervener in the process that would be subject to cross examination. Mr. Morton noted the qualifications and standard of evidence required in the process.

First Selectwoman Klein stated that she received an e-mail from Jim Tatum, who initiated the petition, offering his services to work toward a common purpose. She noted that that was the purpose of the meeting on the Tuesday and that nothing came forward in the form of compromise. The Board described other alternatives that were not feasible or on property that was not under control of the Town. Mr. Bayne described that the pumping system is not a permanent solution. Ms. Santarella asked how much in overtime costs did it take to run the pump. Mr. Steeger responded by stating that it was approximately \$25,000 for the year.

Ms. Sullivan asked if the trees in Baker Park could be tagged to show the neighbors which would be removed and which would be kept standing.

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Mr. Steeger stated that no trees would be left in the area of the pond. However, a substantial stand adjacent to Dubois Street would be left, the wetlands near the ball field would be kept, on the eastern border of the project 25-30 foot depth of existing growth would be kept and the northern side behind Maple Street would be kept as is.

Mr. Bayne felt that the Town was too far into the process to withdraw the application. He added that he did not hear enough at the Tuesday meeting on the importance to Heights Road businesses. First Selectwoman Klein stated that the meeting was with the petitioners, not all impacted. She asked if there still was community will to look for solutions to flooding. There were some people in the audience angry about flooding two years ago and then again looking to save the trees. She wanted to know if the community supports fixing flooding in one area that impacts a different neighborhood, which is part of the Milone & MacBroom study.

Ms. Sullivan stated that she spoke to people in the area of Dubois Street and noted that many were in support of the project. Ms. Santarella felt those neighbors should have been at the meeting. First Selectwoman Klein emphasized that the meeting was for petitioners and business owners on Heights Road were not contacted.

Ms. Sullivan asked if the Town could minimize the impact to Baker Field such as reducing the size of the basin. First Selectwoman Klein noted that the project must comply with State regulations. Mr. Steeger added that the size was a result of hydrology and based on accepted engineering criteria. He noted that all information and detail is available to anyone that would like to check the calculations. He added that it would be a tough decision with no easy alternatives.

First Selectwoman Klein asked for an estimated cost for the Town to proceed with the process. Mr. Steeger suggested a cost of \$18,000-25,000 for the consultants to testify. Mr. Kilduff suggested an additional \$25,000 for an environmental attorney. Both estimates would depend on the length of time associated with the DEP hearing process.

Mr. Morton suggested that the visual of flooding on Heights Road needed to be recalled and serve as a reminder as to why this project was developed.

First Selectwoman Klein acknowledged Dot Kelly, who deferred to Peter Hillman, Chairman of Darien EPC and the Flood & Erosion Control Board. He and the Commission did not take a position on the Baker Field project. He believed that part of the neighbor concern was that a hearing would not be held by the local wetland commission that knows the Town and its wetlands best. Dot Kelly described two earlier projects she was involved in that had State permits and allowed the local EPC an opportunity to weigh-in.

Citing time constraints, First Selectwoman Klein asked the Board for its desires. Ms. Santarella moved, seconded by Mr. Morton, that the Town of Darien would continue with the proposed flood mitigation project at Baker Field through the DEP hearing process. The motion passed unanimously.

Mr. Bayne left the meeting at 8:46 a.m.

First Selectwoman Klein wanted to continue discussing the DEP process.

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She noted that the DEP staff was very specific about the formality of the process and they would be seeking expert testimony. She didn't want to have a situation where the public didn't understand the formality of the process. Neither party should take the process lightly.

Mr. Hillman asked how the EPC should proceed with its review of the other aspects of the project. A lengthy debate ensued on the EPCs jurisdiction being clarified as it related to the DEP jurisdiction to review the project and the interconnected nature of the Baker Field project with the wetlands mitigation efforts to be reviewed by the EPC. It was noted that the EPC is still waiting on an answer for the DEP if they claim exclusive, non-concurrent jurisdiction on the tree removal process.

Cheryl Russell asked if any of the petitioners have been asked if they would remove their name from the petition. First Selectwoman Klein responded no. Ms. Sullivan read a portion of Mr. Tatum's e-mail which stated "please do not mistake our offer as a lack of resolve; we remain inalterably committed to the preservation of our town's beautiful asset." First Selectwoman Klein added that she did not want to create the impression that the Town was pressuring people.

Mr. Morton left the meeting at 9:16 a.m.

Questions continued to be posed by members of the audience regarding alternate approaches. Mr. Steeger provided an overview on the history of the project. He emphasized that the assumption of water flow which impacts the size of the pond was a result of having to get DOT approval in addition to DEP. Reese Hutchison of EPC asked if the project had to solve 100% of the problem or could there be "storage" at Heights Road. Mr. Steeger responded that the project was designed for the water flow from a 100-year storm event. This would result in no "storage" on Heights Road.

Discussion continued on the DEP hearing process and their involvement in permitting the project. Mark Attaletta, Chairman of the Public Works Committee of the RTM was asked if his committee updates its members on the project. He confirmed that it has been discussed at most meetings.

Discussion then moved to the pending application before the Darien EPC and whether it should go forward or be removed without prejudice. The merit of withdrawing the application in light of the DEP hearing process was discussed.

Ms. Santarella moved, seconded by Ms. Sullivan, to withdraw the Town's application before the EPC pending deliberations before the DEP with the intent to resubmit the application at the end of the State process. During discussion of the motion, First Selectwoman Klein stated that she would support the majority but would have liked to go forward to hear from the public and receive feedback. The vote passed unanimously with Mr. Bayne and Mr. Morton absent.

First Selectwoman Klein recognized Chris Noe from the RTM. Mr. Noe agreed with the decision to continue with the process and hoped other opportunities would come forward such as purchasing the homes behind McGuane Park to build a pond. He also felt that an education piece should be developed for the public to understand their roll in flooding. First Selectwoman Klein thanked Mr. Noe for his comments. She also noted that the pump on Heights Road would remain in operation.

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**ADJOURNMENT**

Ms. Santarella moved, seconded by Ms. Sullivan, to adjourn the Emergency Meeting.  
The meeting was adjourned at 9:54 a.m.

Respectfully submitted

Karl F. Kilduff  
Administrative Officer